



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2017-0441; FRL-9980-34-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Infrastructure Requirements for the 2012 Fine Particulate Matter National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) submission from Maryland addressing the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2012 annual fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS or standard). The infrastructure requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA. EPA is proposing to approve Maryland's submittal addressing the infrastructure requirements for the 2012 PM_{2.5} NAAQS in accordance with the requirements of section 110 of the CAA.

DATES: Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2017-0441 at <http://www.regulations.gov>, or via email to spielberger.susan@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of

submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Sara Calcinore, (215) 814-2043, or by e-mail at calcinore.sara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Particle pollution, also referred to as particulate matter (PM), is a complex mixture of small particles and liquid droplets suspended in the air, which causes adverse health effects and is the leading cause of visibility impairment in the United States. Particles with a diameter equal to or less than 2.5 microns referred to as fine particulate matter or PM_{2.5}, are either emitted directly into the atmosphere or are formed from the chemical reactions of precursor gases, such as sulfur dioxide (SO₂), nitrogen oxides (NO_x), certain volatile organic compounds (VOCs), and ammonia, in the atmosphere. SO₂ and NO_x are the primary precursors for the formation of PM_{2.5}.

and are emitted primarily from point sources as well as nonpoint, onroad, and nonroad sources.

On July 18, 1997, EPA promulgated a new 24-hour and a new annual NAAQS for PM_{2.5} (62 FR 38652). On October 17, 2006, EPA revised the NAAQS for PM_{2.5}, tightening the 24-hour PM_{2.5} standard from 65 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 35 $\mu\text{g}/\text{m}^3$, and retaining the annual PM_{2.5} NAAQS at 15 $\mu\text{g}/\text{m}^3$ (71 FR 61144). Subsequently, on December 14, 2012, EPA revised the level of the health based (primary) annual PM_{2.5} NAAQS to 12 $\mu\text{g}/\text{m}^3$. *See* 78 FR 3086 (January 15, 2013).¹

Pursuant to section 110(a)(1), states must submit “within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof),” a plan that provides for the “implementation, maintenance, and enforcement” of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions and the requirements to make the submissions is not conditioned upon EPA’s taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that “[e]ach such plan” submission must address. EPA commonly refers to such state plans as “infrastructure SIPs.”

II. Summary of SIP Revision and EPA Analysis

On August 18, 2016, the State of Maryland, through the Maryland Department of the Environment (MDE), formally submitted a SIP revision in order to satisfy the requirements of section 110(a) of the CAA for the 2012 PM_{2.5} NAAQS. The SIP submittal addressed the following infrastructure elements for the 2012 PM_{2.5} NAAQS: CAA section 110(a)(2)(A), (B),

¹ In EPA’s 2012 PM_{2.5} NAAQS revision, EPA left unchanged the existing welfare (secondary) standards for PM_{2.5} to address particulate matter (PM) related effects such as visibility impairment, ecological effects, damage to materials, and climate impacts. This includes a secondary annual standard of 15 $\mu\text{g}/\text{m}^3$ and a 24-hour standard of 35 $\mu\text{g}/\text{m}^3$.

(C), (D)(i)(I), (D)(i)(II), D(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

Maryland's infrastructure SIP submittal did not address the following two elements of CAA section 110(a)(2): the portion of section 110(a)(2)(C) pertaining to permit programs, known as nonattainment new source review (NNSR), under part D of the CAA and section 110(a)(2)(I), referred to as "element (I)," pertaining to the nonattainment requirements of part D, title I of the CAA. According to the EPA guidance issued on September 13, 2013 (2013 Infrastructure Guidance),² the NNSR permitting program requirement of section 110(a)(2)(C) is to be addressed in a different SIP, therefore does not need to be addressed in this SIP revision. Section 110(a)(2)(I) is not required to be submitted by the 3-year submission deadline of CAA section 110(a)(1) and will be addressed in a separate process if necessary.

EPA is proposing to approve Maryland's August 18, 2016 infrastructure SIP submittal for the 2012 PM_{2.5} NAAQS. A detailed summary of EPA's review and rationale for approving Maryland's submittal may be found in the Technical Support Document (TSD) for this rulemaking action, which is available online at www.regulations.gov, Docket ID Number EPA-R03-OAR-2017-0441.

III. Proposed Action

EPA's review of Maryland's August 18, 2016 infrastructure SIP submittal for the 2012 PM_{2.5} NAAQS indicates that MDE's August 18, 2016 submittal satisfies the infrastructure requirements of CAA section 110(a) for the 2012 PM_{2.5} NAAQS. Therefore, EPA is proposing to approve Maryland's infrastructure SIP submittal for the 2012 PM_{2.5} NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be

² "Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2)," Memorandum from Stephen D. Page, September 13, 2013.

considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, which proposes approval of Maryland's infrastructure SIP submittal for the 2012 PM_{2.5} NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 et seq.

Dated: June 19, 2018.

Cosmo Servidio,
Regional Administrator,
Region III.

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